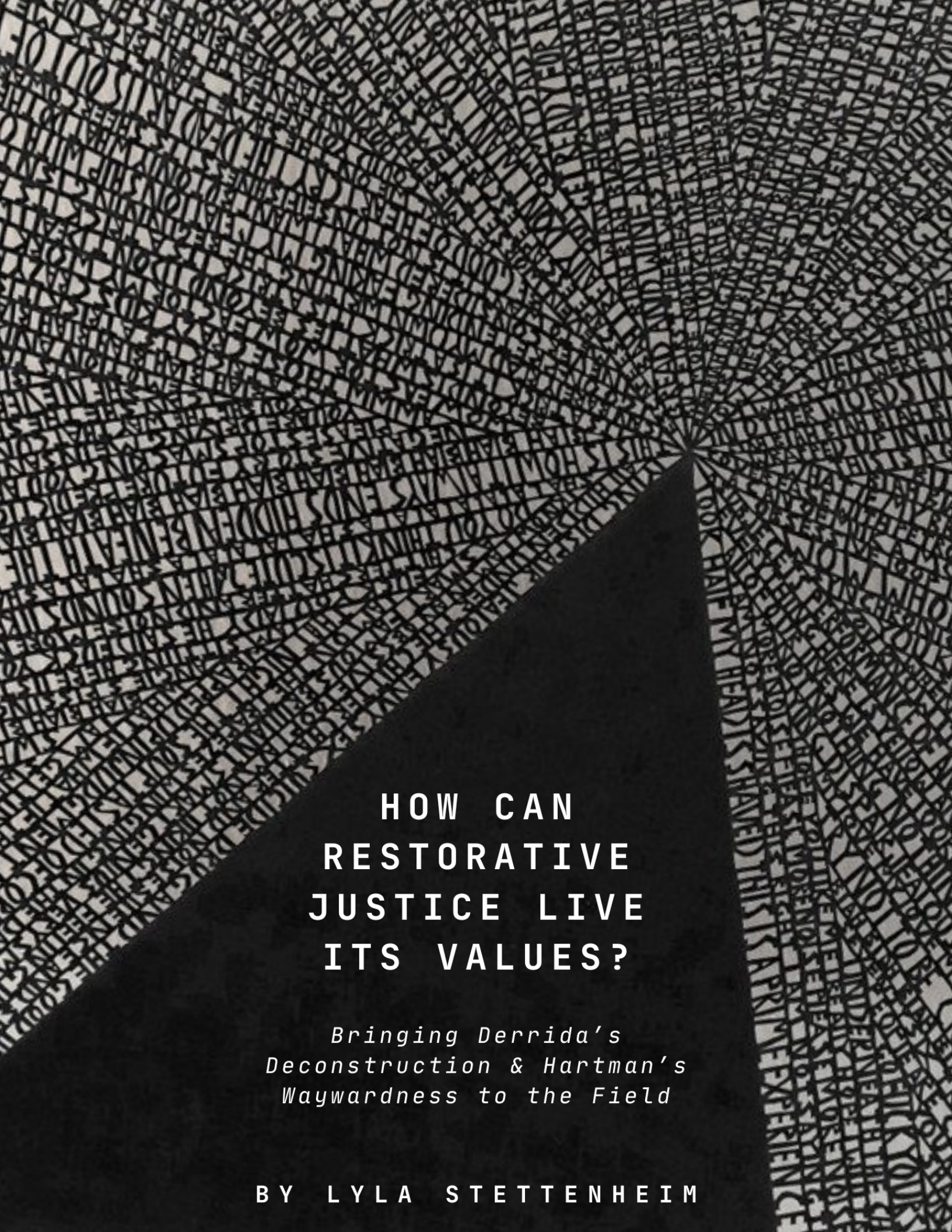

HOW CAN RESTORATIVE JUSTICE LIVE ITS VALUES?

Bringing Derrida's Deconstruction & Hartman's Waywardness to the Field

BY LYLA STETTENHEIM

How Can Restorative Justice Live its Values?

Bringing Derrida's Deconstruction and Hartman's Waywardness to the Field

by
Lyla Stettenheim
(with support from many others)

A thesis submitted in partial fulfillment
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And then, I would love to write… a short treatise on love of ruins. What else is there to love, anyway? One cannot love a monument, a work of architecture, an institution as such except in an experience itself precarious in its fragility: it hasn't always been there, it will not always be there, it is finite. And for this very reason I love it as mortal, through its birth and its death, through the ghost or the silhouette of its ruin, of my own-which it already is or already prefigures. How can we love except in this finitude? Where else would the right to love, indeed the love of right, come from?
– Jacques Derrida, *Force of Law*

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To Pomona College: I am grateful that my experience here connected me to the people above. In accordance with our promoted values, divest from genocide.

WELCOME TO THE TEXT

(*Hurtado-Ramos*)

Preface

I have questioned the value of academic texts. What is the point of writing, when we could be doing? When twelve-year-olds are handcuffed and put in the back of a cop car[1], when unhoused people are arrested for entering a college's library[2], when weapons are planted on prisoners hunger-striking for their own rights[3]? (all three intersected my life yesterday) When there is a genocide in Gaza? When there are a million other things to do?

That is life, the life of one not in crisis. There is always someone's tragedy. How do we face it? How do we balance it all, reconcile it, fight with joy, live amidst the tragedy, locate the beauty in the brutality?

That's what this thesis speaks to. **How do we live our values, and still live?** The writing that follows is my reflection, my attempt to answer. I found its value. This text helped me, and I hope it will help you too.

Introduction

You're about to follow an exploration of restorative justice, deconstruction, and waywardness. This text will weave the three together, positioning deconstruction and waywardness (academic projects) to illumine restorative justice (the field I have entered, and hope to again).

I first touched the field the summer before my final year of college. I met Lindsey Pointer and DeMointé Wesley, and I worked with them at the National Center on Restorative Justice. We made a video series to promote the field, and in August, I interviewed Tony. Tony was the first kid to be sentenced as an adult in California. When he was 14, Tony conspired with a local gang to rob a pizza delivery man. The robbery went wrong. Tony shot and killed the man, Tarik Khamisa, and went to prison. But Tarik's father came to Tony in prison, and they had restorative

---

[1] On Monday, April 29th, 2024… I mediated a restorative justice case for a twelve-year-old who was handcuffed, arrested, and put in the back of a cop car for *taking back his own bike*, from someone who had stolen it from him.
[2] On Monday, April 29th, 2024… the Claremont Police Department arrested an unhoused man who peacefully entered the Claremont Colleges Honnold Mudd Library, and brought him to the jail.
[3] On Monday, April 29th, 2024… Jo'An (my professor's loved one, imprisoned at California Medical Facility, or CMF) was fighting charges of possessing a weapon, after she found and returned a weapon she came across while cleaning the bathroom. (FYI: After being put in 'the hole' for several days, she has since beat the charges and ended her hunger strike, after CMF agreed to provide adequate medical care!)

dialogue. They talked, processed, built a relationship, and after Tony was released, the two co-founded the Tarik Khamisa Foundation. Tony and Tarik's father now travel together to schools and juvenile centers across the state to make sure that what happened to Tony, and what happened to Tarik, doesn't happen to other kids. To make sure there are no more victims, on 'either end of the gun.'

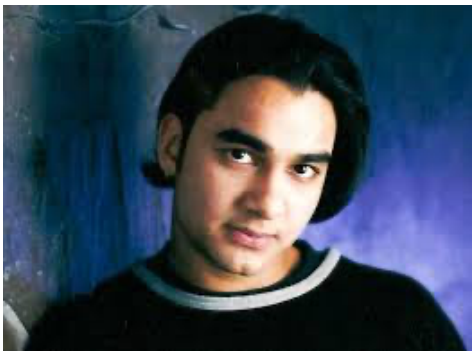


Photo of Tariq Khamisa (Credit @ Tarik Khamisa Foundation)

Photo of Tony and Tariq's father (Credit @ Tarik Khamisa Foundation)

Restorative justice as an approach to crime can be hard to accept. It's this idea that instead of seeing crime as something to punish through incarceration, you see crime as a harm to be repaired – by bringing the perpetrator of the crime, the survivor of the crime, and other impacted community or family members together. The response can be mediation, community service, whatever the group finds is necessary to repair (as much as possible) the harm. This process can replace incarceration, or occur after as a way of reconciliation. It sounds like a fairy tale that this can work – but Tony, and every other person I've talked to, and every piece of research I've come across, shows that restorative justice is transformational: it significantly reduces the chance of future crime, and significantly increases survivors' sense of closure and safety. As Tony told me: *"Restorative justice transformed my life. Helped me see that forgiving myself was possible, that there is growth even in the most difficult parts of our lives"* (Hicks, 2023).

I believe in restorative justice. Tony believes, Azim Khamisa (Tarik's father) believes, Lindsey, DeMointé, people across the country, across the world, we all believe. But that's not enough. There are real challenges, systems to face, oppressions to counter. How can restorative justice face these, face the ever-ongoing tragedy of someone? That's what this paper will explore. How can the field live its values? How can I fight for change, and fight to live, within the context of restorative justice?

PART ONE

RESTORATIVE JUSTICE

Illustration by Bianca Diaz for "Justice: A Short Story" (Diaz, B.)

"She asked where all of the criminals were housed. When we stared blankly, she became agitated and yelled 'the bad people, the bad people, where do you put them?' My mother said that there was no such thing as bad people, only people who sometimes did a bad thing. Our visitor laughed bitterly. 'Okay then,' she said, 'where do you put the people who do bad things?' Finally, I spoke up. 'We don't put them anywhere because we all do bad things sometimes and through our relationships with each other we acknowledge the harm we've caused and then we do our best to try to repair it.' [She] looked at me like I had grown another head" (Kaba, 2021, 76).

An excerpt from "Justice: A Short Story" by Mariame Kaba, written to "think through another world where punishment is not part of the glue that holds a society together" (Kaba, 2021, 81)

1.1 Introduction: Introducing Restorative Justice

I started volunteering for a restorative justice (RJ) organization in Los Angeles in my final semester of college. After undergoing training, I began to co-mediate cases between youth and people or organizations they had harmed. It's what I'm doing right now, what I did this morning as I write this chapter. It's a powerful process. Because of our mediation this morning, a youth isn't facing incarceration for shoplifting a $50 pair of pants – instead, they're writing an apology letter to the store, an apology letter to their mom, and a reflection letter for themselves. This is all because of the Victim Offender Restitution Services (VORS) program at Centinela Youth Services, or CYS for short. VORS starts with a 'referral partner' in the county – so a police officer, a DA, a school administrator, and so on – referring a youth who committed a crime to us.[4] Once the youth is referred – and the youth consents – we start the process. The final step is the mediation I co-facilitate. Along with another trained mediator, I bring together the youth, the youth's parent(s), and the harmed party to talk. Everyone gets a chance to share, to ask questions, and to write a restitution agreement together. The restitution agreement can be anything: from community service to a school presentation to an apology letter to anything else the group decides upon. It's over once the youth completes this. There's no fine, no incarceration, no outside outcome imposed by the legal system. Instead, the system honors the agreement in place of anything else.

The process can be beautiful. Watching (and being a part of) community members coming together to hear from everyone involved in an instance of harm to repair that harm has moved me, it has touched me. And it moves others too: the CA Judicial Council found that 97%

[4] Yes, the program refers to a police officer or a DA as a 'partner' – I'll problematize and explore that in a later chapter.

of all referred youth were satisfied with the VORS mediation, and 95% of all participating harmed parties would recommend the CYS program to another (Evje & Cushman, 2000). Even more so, the Council found that 85% of all referred youth did not recidivate during their first year after completing the program (Evje & Cushman, 2000). The process is powerful, and it works.

It's CYS's take on how to give shape to restorative justice. Restorative justice is a growing force in the United States. In fact, you can find restorative justice across the world, but that's a story for a different paper. This force in the States is hard to define; I can't pinpoint it into a two-sentence definition. That's because restorative justice is more of an amorphous collection of values and principles that relate to justice, that relate to harm and undoing harm, as opposed to anything you can nail down. Howard Zehr, an RJ practitioner and scholar, describes it as a "philosophy" (Zehr, 2015, 10). One of my mentors at the National Center of Restorative Justice, DeMointé Wesley, describes it as a "way of life" (Wesley, 2023). Either way, however you categorize it, the sum of restorative justice is something that calls to re-imagine justice, to re-imagine how we address harm, to re-imagine so that we may build a world like the one Mariame Kaba dreamed in her short story.

Because restorative justice is amorphous, there is no one model of restorative justice that is the ideal. The VORS program at CYS is not some "blueprint" to implement across the country (Zehr, 2015, 10). Rather, it's what the people of L.A. county created from restorative justice's values and principles for L.A. county. Programs for other places need to be created for those places. As Zehr illuminates, restorative justice "is *not a map*, but the principles of restorative justice can be seen as a *compass* pointing a direction" (Zehr, 2015, 14). The principles of restorative justice really are the key, and so that's what will be the focus of this section.

As Zehr describes, the principles of restorative justice are "rooted" in a number of underlying values (Zehr, 2015, 32). It's impossible to understand the principles (at least fully) without understanding the values. Most of the restorative justice field in the States accepts *hearing harm, embracing community, valuing particularity*, and *discovering the self* as the field's core values. Hearing harm is probably the most foundational. Edward Valandra, another RJ scholar, argues that "hearing from and listening to those who are suffering or have suffered harm, whether individually or through structural marginalization, is RJ's core value" (Valandra, 2020, 373). It's important to note that this value doesn't make restorative justice (necessarily) about forgiveness or reconciliation. Hearing harm doesn't require forgiveness (and in fact, neither does repairing harm).

Hearing harm is deeply connected to another core value of the field: the value of *community*. In Kaba's short story, the main character describes that "when one person in our community experiences harm, all of us are harmed" (Kaba, 2021,83). This understanding of community is necessary to restorative justice; otherwise, the value of hearing harm would fall flat. Zehr describes this value as interconnection. In parallel to Kaba, he writes that "we are all connected to each other and to the larger world through a web of relationships. When this web is disrupted, we are all affected" (Zehr, 2015, 27). You can see this understanding of community echoed throughout the VORS program at CYS. VORS is almost entirely community-run. Besides the case managers and the referral partners, every mediator, every translator, every surrogate victim is a volunteer community member. These community members come together because they believe in restorative justice's value of community, because they (or rather, we) believe that one of us is unwell, all of us are unwell.

Valuing *particularity* is also important to fully hearing harm. To engage with any harm an individual may experience, we must embrace community to connect with that person, yet we must also embrace that person. As Zehr writes, "particularity… respects the… worth of each person" (Zehr, 2015, 27). But even more so, particularity respects the specifics of that person, and the specifics of their situation. We must recognize the details of someone's harm in order to truly hear it. Thus, Zehr further explains that particularity also "takes seriously specific contexts and situations" (Zehr, 2015, 27). It's helpful to note that this aspect of particularity affirms the understanding of RJ not as a map or blueprint to be applied blindly, but as a compass that engages with the details of each situation.

The final core value of the field is *discovering the self*. Practitioners and participants of restorative justice must engage in self-discovery – for embracing the other values (and ultimately the principles) of restorative justice is impossible without awareness of the values and characteristics that we already hold. Victor Jose Santana, an RJ practitioner and leader, shares this personally: "I have come to understand that, in order to be effective in… [RJ] work, I must engage in my own process of self-discovery" (Santana, 2020, 284). Barbara Sherrod, another RJ practitioner and educator, agrees. Sherrod stakes that "restorative practices require honest self-reflection" (Valandra, 2020, 16). This self-discovery is something to celebrate. It's healing. Heather Thompson, an RJ participant and facilitator that I interviewed this past summer, shows this. She told me how living RJ has *"made me a better mom"* (Thompson, 2023). Santana shares in a similar way: "through my… practice, I have become more aware of my own trauma and cognitive dissonance" (Santana, 2020, 284). I also want to note the especial importance of practitioners practicing self-discovery. Armster, another RJ practitioner and teacher, marks that mainstream restorative justice literature can treat RJ practitioners as inherently "impartial" or "open-minded" (Valandra, 2020, 20). But that's obviously not the case. RJ practitioners are people, and every person comes with biases. That's why it's especially important that practitioners discover the self – because that's the way they can be most aware of their biases and most account for them during restorative justice processes.

These core values give rise to (and give meaning to) the principles of restorative justice. Zehr formulates five principles for restorative justice in the United States:

> "1) Focus on the harms and consequent needs of [survivors], as well as the [harms and consequent needs of people who caused the harm and those of] communities;
> 2) Address the obligations that result from those harms [meaning the obligations of the people who caused the harm, and the obligations of communities and larger society];
> 3) Seek to put right the [harms];
> 4) Involve those with a legitimate stake in the situation;
> 5) Use inclusive, collaborative processes" (Zehr, 2015, 30).

Zehr develops five questions from these principles that illuminate even more how to approach harms. For all harm, Zehr explains that restorative justice asks:

> "1) Who has been hurt?
> 2) What are their needs?
> 3) Whose obligations are these?
> 4) Who has a stake in this situation?
> 5) What is the appropriate process to involve the stakeholders in an effort to put things right?" (Zehr, 2015, 35).

Zehr's first question shows that restorative justice is indiscriminately focused on harm. Even in instances of wrongdoing that seem clear, restorative justice never limits who can have

experienced harm. Think about the shoplifting example that I shared in the beginning. It's true that restorative justice's first concern must be with the harmed party – in this case, the store. But as Zehr describes, restorative justice's "focus on harm implies that we also need to be concerned about harm experienced by… communities and by [those who caused the harm]" (Zehr, 2015, 22). This means that part of my responsibility as a co-mediator was to open space for any hurt from the community from the shoplifting – that's part of why we had the parent of the youth participate in the mediation. We also opened space for any hurt from the youth who did the shoplifting. This could have been hurt from during the incident, or hurt from before that led in some way to the incident. In our case, the youth shared that the store's security officer shoved him, and that he was handcuffed and left alone for 7-8 hours before being brought to the police station. Take a second to read that. It's heart-breaking, right?

Figuring out *who* has been hurt then allows us to ask about what each person (or group, or community, etc) *needs* as a result of this hurt. This is what Zehr understands as the second question of restorative justice. Many needs are similar across different instances of harm. For example, no matter the incident, many RJ practitioners find that survivors usually need: 1) information (survivors want to understand what happened); 2) truth-telling (survivors want to be able to share what happened from their perspective); 3) empowerment (survivors want to be involved in resolving what happened); and 4) restitution (survivors want something that makes up, in some way, for what happened). In my shoplifting case, a CYS volunteer acted as a surrogate victim[5] because the store was unable to participate. This means that the volunteer ended up speaking more to the community needs regarding the incident than specific harmed party needs. The volunteer shared about local businesses closing down, and the importance of supporting these businesses (as opposed to shoplifting) because the community needs these jobs. This is pretty typical across restorative justice cases: many practitioners find that whatever the case, communities want attention to their concerns as survivors, as well as opportunities to strengthen community. The parent of the youth further spoke to her needs as a community/family member. As to the people who cause harm, RJ practitioners largely discover that they need accountability. But because restorative justice understands that the people who caused harm may have also experienced harm, they may have the needs of survivors too. That was the case in our mediation. This starts to show that restorative justice is not about categorizing people into harmed parties and the parties that harm; it's about engaging with each person, and each person's needs. This, again, reflects that restorative justice is not a blueprint, but a set of values and principles that inspire action specific to each circumstance.

The next part of this action – Zehr's next restorative justice question – is figuring out who has the *obligation* of addressing these needs. The person who caused the harm usually has an obligation to the survivor and to anyone else who experienced harm. In our case, the youth had an obligation to the store and to his mother. But fulfilling these obligations may require community support – which means that the community (and potentially the larger society) might have obligations to the youth. The survivor might also require support from the broader society. And because the youth was hurt, someone else might have an obligation to them. You can start to see the community/interconnection value that's core to restorative justice in this web of crisscrossing obligations.

---

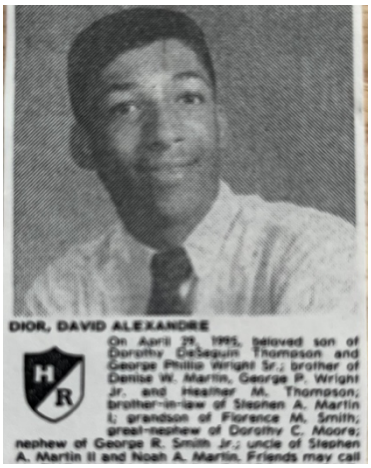
[5] In the VORS program at CYS, when the actual harmed party is unable to participate, a trained volunteer acts as a 'surrogate victim' to represent the harmed party. The volunteer is (ideally) a member of the community in which the incident took place, and (ideally) has information about what the actual harmed party felt and/or needs regarding the incident.

Zehr's next question regards the stakeholders of the situation. Stakeholders are someone who has a "standing in the" instance (or instances) of harm, and so should be involved in addressing the instances(s) (Zehr, 2015, 16). So, this means anyone who was hurt and/or anyone who has an obligation. In our case, the stakeholders were the youth, the youth's parent, and the surrogate victim (representing the survivor and the community). I want to highlight how restorative justice's inclusive (or indiscriminate) approach to hearing harm is carried into an inclusive understanding of obligations, and that's further reflected in this inclusive understanding of stakeholders. This is part of what makes restorative justice unique. For example, the U.S. legal system only considers the government and the offender as stakeholders in an instance of crime – but restorative justice includes survivors and community members as well (and even understands that people might have more than one positionality).

After determining *who* has been hurt, what their *needs* are, who has an *obligation* to address these needs, and who is a *stakeholder* in the event, restorative justice asks: what's the best *process* to bring stakeholders together to try put things right? Putting right simply means addressing all needs via fulfilling the obligations, all to best repair the hurt that occurred. In the VORS program, that process looks like a mediated 2-hour session with all of the stakeholders. The stakeholders all have a chance to share about harms and needs, and collectively write a restitution agreement that addresses every obligation. For our mediation, the youth wrote an apology letter to the store (for his obligation to the store) and an apology letter to his mother (for his obligation to her) and a reflection letter.[6] But like I wrote earlier, the VORS program is only one way to give life to the values and principles of restorative justice. The next section will explore what other processes can look like, and general themes among these processes.

1.2 Process: Restorative Justice Circles

This section is about the processes of restorative justice. But before I go into this, it's important to understand that no process might ever be able to fully repair the hurt that occurred. Like Zehr explains, "when a severe wrong has been committed, there is no possibility of… going back to what was before" (Zehr, 2015, 27). All that's possible is some repair that makes the after-math easier. I first interviewed Heather Thompson, the mother I quoted earlier, for a participant's perspective on restorative justice. What she shared was sad, stop-a-moment-heart-wrenching – and find-a-way-to-live-again resilient.[7] When Heather was 19, her brother was murdered, and she wanted the death penalty for his murderer. But the murderer received prison instead. Heather continued with her life, but she carried her anger, carried it with her for years: into motherhood, across state lines, into every job. And in one such job, she happened upon restorative justice and realized that she wanted a facilitated encounter. The idea brewed, she


DIOR, DAVID ALEXANDRE

On April 29, 1995, beloved son of Dorothy DeSequin Thompson and George Phillip Wright Sr.; brother of Denise W. Martin, George P. Wright Jr. and Heather M. Thompson; brother-in-law of Stephen A. Martin II; grandson of Florence M. Smith; great-nephew of Dorothy C. Moore; nephew of George R. Smith Jr.; uncle of Stephen A. Martin II and Noah A. Martin. Friends may call

Photo of Heather's brother David (Credit @ Heather Thompson)

[6] It's possible, but unclear, whether the youth was offered a chance to write this reflection letter because of the harm he experienced (as a chance to process this harm). But either way, I believe that a reflection letter is insufficient to address the harm that he experienced, and that's something I'll return to in the final section of this chapter.

[7] I want to say, once again, how grateful I am for what Heather shared with me. Heather is one of the first people I talked to about restorative justice, and she's part of why I wrote this thesis, part of why I facilitate mediations, part of why I believe so deeply in this 'way of life.'

gave it strength, and two decades after her brother's death, she came face-to-face with his murderer. **She ended up giving him a hug.** That hug did not bring her brother back. It did not fully repair her hurt. But it did give Heather a chance to forgive herself, for all of the anger she had carried around for years, and that gave her new space to embrace all of the beautiful things in her life. It gave her space to "*be a better mom*" (Thompson, 2023). It gave her space for life after her brother to be a little easier, a little lighter.

Restorative justice processes can look a lot of different ways. But Heather and the VORS program at CYS show that an encounter between the people involved is usually critical. People in restorative justice call this encounter a 'circle.' Both what Heather participated in, and what I mediated for the youth who shoplifted, can be described as a circle. A circle is any type of space created for the people involved with a harm to share openly. Santana, an RJ practitioner and Circle-keeper (what RJ people call someone who facilitates a circle), describes the circle as "a way for us to get to know each other, [to] build community" (Santana, 2020, 300). It's a space "to be vulnerable, [where] we learn from each other's stories and feelings about difficult things" (Santana, 2020, 297). It's a space of sharing that doesn't arise in many other places in life. Technically, a circle can be about anything. It doesn't have to relate to harm. The main character of Kaba's short story describes a circle as:

> "We discuss all of our issues in circle. We celebrate in circle. We mourn in circle. Basically, circles are how we communicate and how we connect. Anyone in our community can call and keep a circle at any time and for any reason. There are no special skills to learn; all you need is to listen and make space" (Kaba, 2021, 83).

That's a dream of many people in restorative justice: to create intentional space to share and connect for everything, to hold circles for everything.

But right now, most people in restorative justice in the States use circles to address harm – as the answer to Zehr's restorative justice question about what the *process* should look like. But narrowing the process down to a circle still leaves the process pretty open. People hold circles in a lot of different ways. In fact, Heather now leads restorative justice circles herself because her own experience was so powerful. She brings members of a group or organization together to discuss harm (either a specific incident, or standing structural harm like racism within the organization). That's a similar setting to Santana's restorative justice circles. He opens circles for community engagement around an issue. Like the figure on the left shows, his circles follow a four-step process: 1) Introduction; 2) Relationship building; 3) Collaborating on issues; 4) Collected solutions. For each step of this process, Santana makes sure that all parts of the self are represented. That's what the figure below (the Medicine Wheel) represents. Recognizing the physical, emotional, and mental selves is intuitive, but we're not used to acknowledging the spirit in the West. To Santana, this means "respecting the energies that brought us together and the tone we are about to establish" (Santana, 2020, 297). One way he does this is by recognizing his "ancestors and the people who made it possible for [him] to be here" (Santana, 2020, 297).

Figure 1.21: Santana's 4-Step Process (Santana, 2020, 298)

Figure 1.22: The Medicine Wheel (Santana, 2020, 298)

At CYS, for the VORS program, we also use a 4-step process for our circles. We facilitate an: 1) Introduction stage; 2) Narrative Discussion stage; 3) Reaching Agreement stage; and 4) Closing stage. Although we don't explicitly use the Medicine Wheel, we also try to create space for the full self in each stage. The main character of Kaba's short story describes yet another circle process:

> "In a series of circles, participants discuss why the violence happened, how it happened, and who was harmed. Community members are asked to stand in the shoes of the person who committed the harm, to consider the conditions that underlie their actions, and to examine their own roles in perpetuating those conditions" (Kaba, 2021, 89).

Heather, Santana, the VORS program, and Kaba show that there's no one way to hold a circle. Like anything related to restorative justice, there's no blueprint to follow. Even when someone develops their own circle-keeping process, it must be flexible. I learned that through VORS. Even though we have a general process, every VORS mediation looks different: some Narrative Discussion stages are smooth, some contentious; some Reaching Agreement stages short, some longer; some Reaching Agreement stages don't even reach an agreement. We always have to adapt the process to the people and their situation. Santana does the same thing in his circles: "when things get hard, we suspend the agenda" (Santana, 2020, 295). Santana and I know that there's no pre-determined process, no pre-determined outcome with circles. Rather, circles are about creating an honest, open, vulnerable, trust-filled, and relationship-centered space to share about hurt, in whatever manner makes most sense for that hurt.

1.3 Law and Justice: The Intersections of Restorative Justice and the Legal System

I just talked about what restorative justice circles (a primary process of restorative justice) look like. This section is about when these circles happen, in regards to U.S. law. People hold circles in many other settings (like workplaces, schools, and more) but that's not a part of this story. But there's still lots to cover: for just as circles can look many different ways, circles also intersect with the law at many different points.[8] Circles can occur within legal system proceedings, after these proceedings, or replace these proceedings entirely. I interviewed a judge in Chicago who brings circles into his courtroom. Judge Donnelly hears business disputes, and at the start of every case, he gives each side an hour to share. This doesn't look like the circle Santana holds, or what I hold through VORS. But it's the same basic idea of giving everyone involved in the hurt a chance to share. People in his courtroom can share about anything: the dispute, their life, whatever feels important. It's a "*moment of glory in the courtroom*" (Donnelly, 2023). This moment matters to people, regardless of how the case ends. It's a moment to be recognized as human, as important, as worthy of time and space. That's something the legal system almost never gives, yet it's meaningful to every person who enters his courtroom. This process of Judge Donnelly's is one way to bring circles into the legal system, but there's countless other ways to do so. It's something certain people in restorative justice are calling for more and more: for more legal system agents to bring the process into their work.

Photo of Judge Donnelly (Credit @ Grace Barbic)

Other people and organizations hold circles after legal system proceedings. That's what Heather experienced, and that's what Tony experienced. Like their stories both show, experiencing a circle at this point still sparks transformation. It's critical to recognize this transformation – it shows that the value of restorative justice is not tied to the law. Restorative justice (and the transformation it sparks) can exist without the law. That means that as we imagine a world that addresses harm differently (as Kaba's short story does), that world can include restorative justice without including the law as we know it.

Circles replacing legal system proceedings also hints at a world without the law as we know it, but imagining a different world is a topic for later chapters. Right now, circles that replace certain legal system proceedings are still largely connected to the system. The VORS program at CYS is one such example of this. Like the figure on the following page shows, our mediations replace what would occur in a courtroom. It's even possible for our mediations to replace an arrest (if our 'system partners' refer the youth before arresting the youth) but this would still entail contact with law enforcement. This means that the VORS program is connected to at least one of the following aspects of the legal system: law enforcement, the DA's office, and/or court. Although the VORS program may replace one aspect, it's tied to these other aspects. Many other organizations that hold circles to replace some part of the legal system

[8] I want to emphasize that circles are not the only restorative justice process. Some people practice restorative justice without circles (without an encounter between those involved in the harm), but I will only talk about how circle-based processes interact with the law.

function similarly. For example, Common Justice in New York City is (at the time that I'm writing this chapter) the only organization in the United States to offer a restorative-justice-alternative-to-incarceration for violent felonies[9]. Even this process has some contact with the legal system. The question of when restorative justice processes should occur (within, after, or as a replacement to the legal system) and what this means for the legal system is a big one. It's a question that will become core to this thesis.

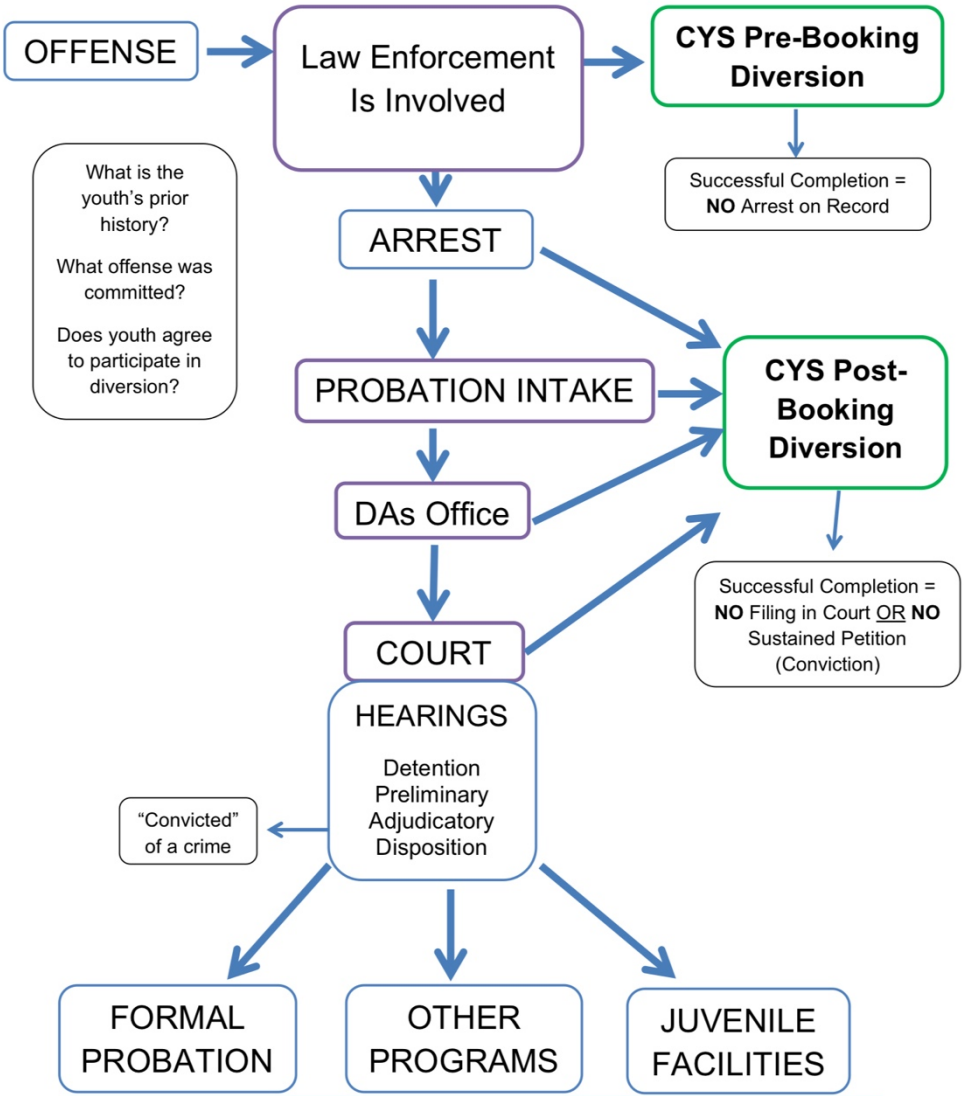


Figure 1.31: Potential Intersections between the VORS Program and the Legal System (Umbreit et al., 2014, 38)

[9] Only youth who committed a crime under the age of 18 are eligible for the VORS program at CYS.

1.4 Aporia[10]: The Question That Faces Restorative Justice

The stories I've shared show that restorative justice can be beautiful. Heather and Tony prove that the field can transform hurt; Judge Donnelly and the VORS youth prove that there is space for this transformation in the legal system. But there's not infinite space – the field can fail to address hurt when the law intersects with restorative justice at cross-purposes. You can see that in the VORS shoplifting case. The restitution agreement recognized the harm of the store, the parent, and the community, but did not recognize the harm of the youth. The youth was shoved, hand-cuffed, left alone for 7-8 hours in the back of a store. That is harm. But no stakeholder in the mediation explicitly recognized this harm or recognized any obligation owed to the youth.[11] That is a failure. The youth deserved more – and so does restorative justice. That lack of action compromised the integrity of the values and principles of restorative justice and threatened the field's legitimacy. If people only uphold the values and principles of restorative justice for certain parties (like the store), restorative justice loses its meaning. Hearing *all* harm is the core value of the field; if we compromise this value, we compromise everything. We lose what makes restorative justice powerful.

The legal system is what triggers this compromising, what complicates the hearing of *all* harm. In the VORS case, the youth's harm was (technically) legal, while the harm of the other stakeholders was illegal. The legal system made it so easy to recognize the harm of the store, the parent, and the community, and so very hard to recognize the harm of the youth. The stakeholders would have had to challenge the law to recognize the youth's harm; not challenge the law by breaking the law, but challenge the law by defying what the law understands as harm. But that's something restorative justice has failed to do since the beginning.

Think about colonization in the United States. Our country (in its modern form) is premised on land theft. It's premised on extreme harm, perpetrated against millions of people. The law has never recognized this harm – and restorative justice has not yet been strong enough to defy this. As Edward Valandra, an RJ scholar who I quoted earlier, asks: "how do settlers tell their offspring that stealing is wrong, when the entire relationship between settlers and Indigenous Peoples is a story about theft and failure to put it right?" (Valandra, 2020, 416). "What is RJ doing to undo the… harm perpetrated against Indigenous Peoples?" (Valandra, 2020, 376). Restorative justice, over and over again, has failed to recognize Indigenous harm. And it's failed to recognize other incidents of harm – like that of the youth in the VORS case – when it requires challenging the structures of our society. The field bows to these structures. It bows to the law, to capitalism, to all these structures when they uphold colonization and racism and all inter-twined oppression within our society. Like Fania Davis, activist and RJ scholar and practitioner, observes, the field "has maintained silence about racial and social justice and decolonization" (Valandra, 2020, 14). By maintaining silence, by bowing, the field upholds these structures. That leaves one question, one core issue, one aporia for the field. In the words of Mara Schiff:

> "'Is it possible for restorative justice to survive and transform such systems to produce socially just results, or is restorative justice more likely to get compromised and co-opted

[10] The term 'aporia' comes from Jacques Derrida's project of philosophy, which is the focus of the next chapter. I'll explain what aporia means there.

[11] It's true that the actual harmed party did not participate in the mediation (they were represented by a trained but unrelated community member instead). While this may have complicated the situation, the trained community member (as a stakeholder) could still have recognized the youth's harm. Looking back now, I realize that I (as a co-mediator) could also have recognized this harm. That's something that I'll explore in a later chapter.

by the overwhelmingly dominant cultural ethos (and corresponding power structures) of the organizations it seeks to transform? **Ultimately, is restorative justice strong enough to co-opt the co-opters?**'" (Valandra, 2020, 13).

Everything is at stake. The field's legitimacy, the field's power. The field's potential to spark a revolution that shifts society. The field's ability to recognize a fifteen year old's trauma.

PART TWO
DECONSTRUCTION AND WAYWARDNESS

"I am in the process of understanding a little more, of transforming the heritage, and going I do not know where. I really do not know where" (Derrida, 2001, 66)
An excerpt from a 'Roundtable Discussion' between Jacques Derrida and other scholars about Derrida's project of deconstruction.

Photo in Wayward Lives, Beautiful Experiments: Champion Charleston dancer Gwendolyn Graham and chorus in 1928. (Credit @ Getty) Images)

"Wayward: the unregulated movement of drifting and wandering; sojourns without a fixed destination, ambulatory possibility, interminable migrations, rush and flight, black locomotion; the everyday struggle to live free" (Hartman, 2019, 227)
An excerpt from Saidiya Hartman's book *Wayward Lives, Beautiful Experiments.*

2.1 Introduction: Introducing Deconstruction and Waywardness

The Roles of Deconstruction and Waywardness

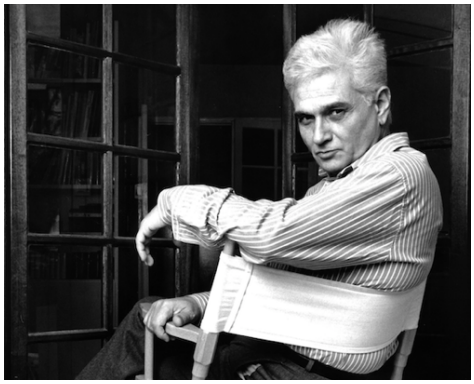


Photo of Jacques Derrida (Credit @ Ulf Andersen)

Can restorative justice withstand the structures of our society, or will the field bow to these systems? Can restorative justice see the harm of the VORS youth, see the harm of colonization, or will it remain woefully, intentionally, complicitly blind? That's what restorative justice needs to answer – and I believe that Jacques Derrida and Saidiya Hartman can help. Derrida was an Algerian-French philosopher, and he developed the project of 'deconstruction.' Deconstruction is his most famous project, and his most misunderstood. Throughout his life, Derrida connected deconstruction to democracy, to consciousness, to hospitality, and more. Towards the end of his life, he recognized law and justice to be its most important focus (Derrida, 1994, 8). That's what makes

deconstruction relevant to this thesis. Among other things, deconstruction is a notion of justice. It's a notion that's both similar to and different to restorative justice. The two projects are alike: they share core characteristics. And the two projects are unalike: deconstruction has characteristics that restorative justice doesn't share, a process that restorative justice doesn't follow, a tie to justice that restorative justice doesn't practice, and an aporia that restorative justice doesn't explore.

The two projects are complementary: grounded enough in their similarities that their differences can provide insights. That's what this chapter will start to explore. I will lay out the similarities and differences between restorative justice and deconstruction, hinting at how I will position the differences to ultimately illumine restorative justice (and the aporia it faces) in the following chapter.

Deconstruction on its own is not enough. Alone, it cannot give enough insight. The project is too law-centric. Its characteristics, its process, its tie to justice, its aporia, they are too tied to the law. While Derrida believes in a justice that's unbound to law, he does not delve into this justice. His texts rarely roam beyond the legal, beyond the courtroom, beyond a relation to a judge. That is limiting. To fully explore justice, to have enough insights to fully inform restorative justice, we must also leave the law behind. And to dive into the extrajuridical – to actually see a justice uncoupled to law – another author is needed. That's where Saidiya Hartman comes in.

Photo of Saidiya Hartman (Credit @ Jörg Meyer)

Hartman develops a project of 'waywardness' in her book *Wayward Lives, Beautiful Experiments.* This book is an exploration and recognition of the 'minor figures' of history: of the young Black women of the 20th century who (unrecognized by most) shaped American life. Every character and context in the book is real. The work is borne out of the Black archive: from rent collectors' journals, trial transcripts, and more. Yet every primary source from which Hartman draws represents her characters as a "problem" (Hartman, 2019, xiv). The sociologist labeled the Black girl 'deviant;' the prison superintendent saw a 'liar.' The archive reduced these Black women to 'minor figures' of little and problematic import.

Wayward Lives, Beautiful Experiments is a call to remember them differently. Hartman's book is a "counter-narrative" (Hartman, 2019, xiv). It's a project to "recover the insurgent ground of these lives" and recognize their impact upon American life (Hartman, 2019, xiv). Hartman uses *Wayward Lives, Beautiful Experiments* to redress the violent bias of the archive. She "presses at the limits of the case file" and "speculates about what might have been" (Hartman, 2019, xiv). She pulls from the archive, but not to reproduce it – to reimagine it so that it might actually represent the Black women of the 20th century. As Hartman writes, the "goal is to understand and experience the world as these young women did" (Hartman, 2019, xiv). The central concept that emerges from this approach is 'waywardness.' Like Hartman says, her approach aims to "amplify... moments when the vision and dreams of the wayward seemed possible" (Hartman, 2019, xv).

'The wayward' is the chorus, the minor figure, those inside the circle. The chorus is a "moving picture of the wayward" (Hartman, 2019, 31). The book is "told from inside the circle" (Hartman, 2019, xiv). And it's Black women who form the chorus, who stand inside the circle,

who are every minor figure. They are the "muses, drudges, washerwomen, whores, house workers, factory girls, waitresses, and aspiring but never-to-be stars" (Hartman, 2019, 345). They are the ones with "crumpled paper bags stuffed with work clothes," the "kitchen conscripts," the "girls trapped in an attic or raped in a coal bin" (Hartman, 2019, 347). By the terms of society dictated to them, by what looms above them, they are the wayward.

Hartman's book is "fugitive text of the wayward" (Hartman, 2019, xiv). It's an album to "learn from what they [the wayward, the young Black women] know" (Hartman, 2019, xiv). It's a "dream book for existing otherwise" (Hartman, 2019, xiv). Where Derrida fails to move outside the law, the wayward (by nature) live in the extrajuridical. That's what Hartman's project brings to this thesis: a notion of justice unbound to law, unseen by the state. Hartman doesn't use the word justice, but I believe that her project is a notion of justice nevertheless (that's something I'll explain more soon). It's the notion of justice, previously missing, now found, that can inform restorative justice, alongside deconstruction's justice. Because Hartman's notion of justice, this waywardness, is not solely for Black women. Others (of another identity) can join the procession, add to the struggle. As Hartman writes:

> "If you are able to bear the burden of what they have to bring, then there is a place for you inside the circle and what you have suffered is part of the inventory… If you dare to listen and watch, or shout, 'Speak – Tell it now,' or clap your hands, you're in it and there's no escape" (Hartman, 2019, 346).

You're a part of the chorus, you're inside the circle, you have an aspect of waywardness too. This 'dream book for existing otherwise' can dream of an otherwise for you too.

The Similarities and Differences Between Deconstruction, Waywardness, and Restorative Justice

Just as I did with restorative justice in chapter one, I will explore deconstruction through its characteristics, its process, its tie to justice, and its aporia. This framework and language comes from Derrida's project – yet because Hartman's project is oriented somewhat similarly, waywardness parallels the characteristics, process, tie to justice, and aporia of deconstruction. That means that I will explore these sections of deconstruction and waywardness simultaneously in this chapter– and its these sections (once contrasted with restorative justice) that will illumine the field in the following chapter.

As I mentioned earlier, deconstruction and restorative justice share key characteristics – and because deconstruction and waywardness are somewhat complementary, waywardness shares these characteristics as well. All three projects are bound to justice (although Hartman does not use this word). Justice is part of what deconstruction calls for, and part of what motivates this call in the first place (Derrida, 1994, 19). Waywardness is also motivated by a desire for something more. It's the "avid longing for a world not ruled by master, man or the police" (Hartman, 2019, 227). I'll dive more deeply into each project's tie to justice later on. Beyond this characteristic, neither waywardness nor deconstruction are a pre-determined set of rules to be applied – just like restorative justice. In the same way that restorative justice is not a blueprint to follow, deconstruction is not a laid-out map. As Derrida notes in "Force of Law," his foremost text on deconstruction and justice, there is "danger" in his project "becoming an available set of rule-governed procedures" (Derrida, 1994, 30). Deconstruction is not something to be blindly mass-produced – and neither is waywardness. According to Hartman, waywardness is an "experiment" (Hartman, 2019, 228).

Because neither deconstruction nor waywardness have a laid-out method, neither project has an expected outcome either. Waywardness "sojourns without a fixed destination" (Hartman, 2019, 227). It's a "directionless search" (Hartman, 2019, 228). Deconstruction's path is just as blurry. In a roundtable discussion on deconstruction, Derrida characterizes his engagement as going "I do not know where" (Derrida, 2001, 66). Restorative justice is the same. Remember how VORS works: the stakeholders determine together what the restitution agreement will be during the mediation. Even with my role as a mediator, I can't predict it before.

No foreseeability means that deconstruction and waywardness are less about the particular outcome of a situation involving justice, but more about the process that situation calls for. Both projects are about the experience, not the end result. That's an occasional characteristic of restorative justice. For example, remember Judge Donnelly. He gives everyone in his courtroom a chance to share. People can talk about the dispute, their life, whatever feels important. This time is important to people, regardless of how the case ends – regardless of the outcome. In Judge Donnelly's practice of restorative justice, he places emphasis on the experience *and* the result, and people benefit from it. I believe that should be a bigger part of restorative justice, and that's something I'll explore more in the following chapter.

These experiences (of which deconstruction and waywardness are about) are complicated. For example, Derrida does not even claim that deconstruction is always – or ever – achievable. He allows only that deconstruction is "possible as an experience of the impossible" (Derrida, 1994, 15). I'll explore this more in later sections, but this means that what deconstruction calls for in a particular situation is impossible – yet because deconstruction calls for it, we (supposedly) find a way to enact it, and it's this (supposedly impossible) experience that is the experience of deconstruction. Waywardness is a similarly ungraspable experience. Waywardness is "what you wanted but couldn't name... the stubborn desire for an elsewhere and an otherwise that had yet to emerge clearly" (Hartman, 2019, 46). Deconstruction is 'possible as an experience of the impossible,' and waywardness similarly lives in experiences that have yet to come (or have come, but are still unfolding). That's a characteristic that restorative justice does share. The core value of the field is hearing harm, in the hopes of repairing that harm – which is not always possible. As I talked about in the first chapter, sometimes all that's possible is making the aftermath of the harm easier. In other words, restorative justice calls for something that's only possible as an experience of the impossible.

The last characteristic that restorative justice, deconstruction, and waywardness all share is transformation. All three are about change. As Hartman writes, those who are wayward "propel transformation" (Hartman, 2019, 348). Waywardness's "untranslatable songs and seeming nonsense make good the promise of revolution" (Hartman, 2019, 348). Deconstruction is the same. It's not a theory, or something to be foreclosed within abstract, theoretical spaces. Instead, it's about a type of change. Not the naïve, strategically controlled intervention: Derrida himself writes that "Force of Law" is a "condemnation… of the revolution that replaces a state by another state" (Derrida, 1994, 59). Rather, deconstruction uplifts changes which are already in motion. As Derrida describes, deconstruction is about the "maximum intensification of a transformation in progress" (Derrida, 1994, 9).

Part of how waywardness and deconstruction change things is how each project approaches the past and the future. Both waywardness and deconstruction see every situation (or question) of justice as unique, and new, yet also tied to past situations. It's the idea that we cannot understand anything now without understanding it in relation to the past. It's the ask to think about how past events and beliefs inform any new situation, and how this new situation

shifts the trajectory or narrative of past events and beliefs. For example, think of the VORS case from chapter one. Was the hand-cuffing and detaining of the youth tied to racist trainings for the security officers at the store? Could the lack of recognition of this harm (of the hand-cuffing and detaining) from our VORS case affirm these trainings, if they do exist? Deconstruction pushes us to look both ways, to the past and to the future, to inform our engagement with a situation. Derrida describes deconstruction as a responsibility in the face of tradition. In fact, Derrida writes that deconstruction is a project of the "traditions and all conflicts within traditions" (Derrida, 2001, 56). Hartman's waywardness is also a 'responsibility in the face of tradition.' Hartman's redressing of the violent bias of the archive is literally a look-both-ways. Her book draws directly from past events, and yet also re-shapes these events, and continually challenges what meaning these events hold. The look-both-ways responsibility in the face of tradition is not currently a characteristic of restorative justice, but it's something that I believe could illuminate restorative justice. That's another thing I'll explore in the following chapter.

Waywardness and deconstruction share every characteristic: the tie to justice, the lack of a method or outcome, the essence as an (impossible) experience, the tie to transformation, the look-both-ways responsibility in the face of tradition. The two differ only in where each author locates each project. Derrida struggles to name deconstructive experiences. Hartman, on the other hand, sees waywardness everywhere. To Hartman, waywardness is on the dance floor of a cabaret like Edmond's Cellar where dancers "compose a wild and beautiful life" (Hartman, 2019, 305). It's at A'lelia Walker's intimate party in Harlem where the "collective lust... transformed you" (Hartman, 2019, 322). It's a "street-corner lecture about the revolution and the new day" (Hartman, 2019, 279). It's with Loretta Michie and the other girls at Lowell Cottage who "made their voices heard even if no one wanted to hear them... who roared with the sounds of revolt" (Hartman, 2019, 282). To Hartman, waywardness is in every "untiring practice of trying to live when you were never meant to survive" (Hartman, 2019, 228).

Hartman paints concrete snapshots of waywardness throughout her book. I believe these images are essential to understanding waywardness and deconstruction – and ultimately, restorative justice. That's why I'll pepper her snapshots throughout this chapter: to ground, and give body to, the theories behind waywardness and deconstruction.

2.2 Process: The Double Movement(s) of Deconstruction and Waywardness

The process of Derrida's deconstruction, and Hartman's waywardness, is a double movement. Derrida explicitly uses this phrase 'double movement,' whereas Hartman does not. Regardless, the key characteristics of both projects – the fundamental link to justice and transformation; the look-both-ways in the face of tradition; the essence as an experience, not an outcome – are all reflected in this movement. In fact, the look-both-ways characteristic shapes the steps of the double movement. The double movement is how to live this characteristic. That makes the double movement relevant to restorative justice. Since I believe that restorative justice could benefit from the look-both-ways characteristic, the double movement is a path to bring this characteristic to restorative justice. That's something I'll explore in the following chapter.

Drucilla Cornell helps to captures the double movement. A Derrida scholar (and friend!), Cornell built her own version of deconstruction: the 'philosophy of the limit.' Her philosophy of the limit follows (or is) the same process as deconstruction (and waywardness). In fact, the name 'philosophy of the limit' is a reference to the limits of the first step of the double movement. I'll draw from Cornell's explanation of the double movement to supplement Derrida's.

Photo of Cornell (left) with Derrida (middle) (Credit @ Birkbeck Law School)

Cornell explains that the first step of the double movement is a call to examine *what* and *how* we think about justice. This relates to the look-both-ways characteristic. The first step *is* the look back to the past: the look to understand tradition, to understand past events and beliefs. Part of this includes recognizing and rejecting any limit built into an understanding of justice. This is what Cornell builds upon with her philosophy of the *limit*. Her insistence on the limit "demands that we think through the realization that justice can never be reduced to the conventions of what 'is'" (Cornell, 1992, 181). We are both limited in how we can think about or describe justice, and yet we can never succumb to this limit, or else we re-inscribe it. Cornell emphasizes this delicate balance. Neither she nor Derrida can "positively... describe the limit as an oppositional cut," for then they would be "reinstating [the] traditional assumptions and dichotomies" they seek to deconstruct – but they still must draw attention to it (Cornell, 1992, 2). As Cornell describes, the limit must be highlighted in a manner that "continually reopens the way beyond 'what is'" (Cornell, 1992, 93).

In this, Cornell shows how the first step of the double movement is part of a cycle. In fact, Cornell's description of the double movement demonstrates its nature as a cycle more clearly than Derrida's explanation does. As Cornell explains, the first step recognizes the limit to understanding justice, but not in a paralyzing way – in a broadening, fueling way. Derrida's first step yields to the 'moment of suspense': the space of suspension and transformation that connects the first and second steps. Cornell's flow moves similarly. Her first step's emphasis on the limit opens the way for her second step to call for a way past or through that limit. The space between these steps – and the space of both of these steps – is a moment of total possibility. It's a moment of recognizing the limit without yielding to the limit. She terms this instant the 'unerasable moment of utopianism' or the 'moment of ethical alternity' (Cornell, 1992, 8, 93). It's the moment that opens change and creation. It's the moment that "invites us to new worlds and reminds us that transformation is not only possible, it is inevitable" (Cornell, 1992, 111). Similar to Derrida, this moment affirms deconstruction's tie to change. As Cornell reminds us, "'deconstruction'... is not the witness to the paralysis of 'repetition'" (Cornell, 1992, 110). Rather, deconstruction is a "re-evolution" (Cornell, 1992, 110).

Cornell's first and second steps – and her version of the moment of suspense – demonstrates that the double movement truly is a cycle. The first step's insistence on the limit is an "appeal 'back' to what has been established," which prompts the second step's "*look* forward to what 'might be'" (Cornell, 1992, 111). The appeal back motivates the look forward, and the look forward motivates the appeal back – for the look forward can only help but recognize the limit, and recognizing the limit is the essence of the first step. This shows that the two steps *are* the look-both-ways characteristic. Derrida's description of the double movement is a cycle of unsatisfying appeal – and so is Cornell's, in her own way. Her philosophy of the limit is not a cycle of "cynical duplicity," but a cycle of ever unfulfilled, ever unyielding "aspiration" (Cornell, 1992, 94).

Hartman's waywardness follows this cycle too. It's the same recognition that looking around at 'what is' sparks thoughts of 'what might be', which only sparks another look at 'what is.' As Hartman literally writes, it's an "ongoing exploration of *what might be*" (Hartman, 2019,

228). Waywardness is deconstruction's (or the philosophy of the limit's) continual cycle of experience sparking experience. As Hartman writes in a different chapter, "experience [is] capable of opening up new ways, yielding a thousand new forms and improvisations" (Hartman, 2019, 230). Waywardness is the "insurgent ground that enables new possibilities and new vocabularies" (Hartman, 2019, 227). This 'insurgent ground' parallels Derrida's 'moment of suspense' (or Cornell's 'unerasable moment of utopianism'). Like Derrida or Cornell, Hartman describes a moment within the movement of waywardness (or deconstruction) that opens transformation. She writes of a "feeling of freedom or possibility that attended leaving everything you knew behind and moving as if nothing tethered you to a time or place" (Hartman, 2019, 66).'

Because Hartman finds waywardness in her characters, in real people of the past, she finds this moment (or feeling) in everyday actions. "Wild thoughts, reckless dreams, interminable protests, spontaneous strikes, riotous behavior, nonparticipation, willfulness, and boldfaced refusal" are all wayward – and so all spark the moment or feeling (Hartman, 2019, 237). It's "stoked by... all the other strivers, running the streets, dancing in the cabarets... watching the parades and the fancy cars glide along Seventh Avenue" (Hartman, 2019, 269). It's present in all of these moments. One chapter of Hartman's book describes "one short block crowded with black folks shut out from almost every opportunity the city affords, but still *intoxicated with freedom*" (Hartman, 2019, 8). At any moment, these folks may bring "the promise of insurrection, the miracle of upheaval" (Hartman, 2019, 8). Or in other words – at any moment, the strangers may open the 'moment of suspense.' Hartman demonstrates that the wild (limited and unlimited) transformation within the double movement is always possible in our everyday lives. In a project borne of real people and real contexts, Hartman gives a direct look in how to *live* the double moment – and its moment or feeling of suspense.

2.3 Law and Justice: The Justice(s) of Deconstruction and Waywardness

Both Hartman and Derrida's projects opens windows into possible understandings of justice. These understandings can help to inform restorative justice (by further illuminating what restorative justice should be reaching for). That's another thing I'll explore in the following chapter. Derrida's deconstruction offers an 'idea of justice.' In fact, deconstruction "operates on the basis of" this very idea (Derrida, 1994, 25). This 'idea of justice' is about a lack of calculation or rules, an existence outside of economic circularity – akin to deconstruction itself (Derrida, 1994, 25). This already distinguishes Derrida's deconstructive approach to justice from his deconstructive approach to law. Rather than exploring justice through the movement of deconstruction (as he does with law), he explores justice through deconstruction itself. If law is "possibility of the exercise of deconstruction," justice is the "possibility of deconstruction" itself (Derrida, 1994, 15). In other words, justice is deconstruction, and "deconstruction is justice" (Derrida, 1994, 15).

This means that justice carries the key characteristics of deconstruction and waywardness. Namely, justice has a complex relation to possibility. As covered earlier, deconstruction (and waywardness) is possible only as an "experience of the impossible" (Derrida, 1994, 15). This means that it's only in this experience – even if this experience does not exist nor ever will – that there is justice. These conditions of possibility mean that justice also represents that same complex interaction between the past and the future. There is only justice to the degree that some experience is possible, meaning that justice is forever tied to what may or may not come.

This complex relation to possibility (or the future) does not make deconstruction's 'idea of justice' any less important or any less relevant. To underscore this point, there's a clear analogy in how Derrida approaches forgiveness. In the roundtable conversation referenced earlier, Derrida speaks of 'pure forgiveness.' 'Pure forgiveness' parallels the 'idea of justice': it's also a "desire beyond economy," a thought passed on "through… heritage" (Derrida, 2001, 53). Pure forgiveness is even equally inaccessible. However, in the roundtable, Derrida also speaks to the concept's necessity. Because pure forgiveness and the idea of justice are so analogous, Derrida's insights into the relevance of this concept can also speak to the relevance of the idea of justice. Derrida says that pure forgiveness is crucial as a starting point to guide practical thoughts and actions regarding forgiveness. As Derrida commented:

> "We need a pure concept of forgiveness, even if there is no forgiveness. We need at least a reference to an absolute forgiveness, an unconditional something, in order, first of all, to know what we mean as much as possible, and to think what we think, even if we cannot know it" (Derrida, 2001, 62).

This can translate to mean that we need a pure concept of justice, even if there is no justice – that we need an unconditional something to know what we mean as much as possible. How Derrida describes justice (its impossibility, and so forth) can make justice seem like something that's not even worth discussing – but Derrida's comments on forgiveness show that both of these concepts are worth discussing and thinking about. Just because Derrida's justice (or deconstruction) may never come to pass does not mean that his justice (or his deconstruction) is not important. We see this concretely in how the 'idea of justice' (whether or not the experience of justice occurs) still always "opens up… transformation, the recasting or refounding of law and politics" (Derrida, 1994, 27).

In the same way that Derrida's deconstruction is justice, Hartman's waywardness is a notion of justice too. It's something that calls for more justice (and seeks to change things to make this happen) like Derrida's deconstruction/justice. As Hartman writes, the acts of the wayward "redistribute the balance of need and want and seek a line of escape from debt and duty in the attempt to create a path elsewhere" (Hartman, 2019, 237). Yet dissimilar to Derrida, Hartman's justice is also a way of living as if justice were already here. Her waywardness is also the "everyday struggle to live free," "the mutual aid offered in the open-air prison" (Hartman, 2019, 227). Hartman's waywardness is justice in those two ways: as Derrida's call for change, and as finding a way to live whether that change comes or not. It's both seeking to make life better, yet not waiting to live until that better comes. It's Loretta Michie's prison riot that demands freedom and better conditions (that is an attempt to change things). Yet it's also Loretta Michie's riot in the sense of chanting, cursing, and hollering no matter what this may change in the future. It's the recognition that calling for that utopia is valuable whether that utopia comes or not. As Hartman writes, "beauty resides as much in the attempt as in its failure" (Hartman, 2019, 197). Look at Esther Brown, who does not wait to live until better comes. She "celebrates that every day something had tried to kill her and failed" (Hartman, 2019, 236).

The relationship between Hartman's waywardness and justice does not tie waywardness to law. Because waywardness's justice is not solely about changing things, it's not solely about changing law. It could be, as Loretta Michie shows – but it could also be escaping law to live freely, or escaping law as a different way to change things. As Hartman writes, her characters "elude the law and transform the terms of the possible" (Hartman, 2019, 349). For example, one of Hartman's characters, Gladys Bentley, is a star in Harlem's most famous nightclubs and cabarets. By playing with gender and performance, Bentley is an "exemplary architecture of

black possibility" (Hartman, 2019, 199). Bentley does not change things through law, but rather though art. Through art, Bentley "trashes the gendered norms" that constrain life (Hartman, 2019, 200).

All of Hartman's characters who live waywardly – either by seeking to enact justice or by living as if justice were already here, either changing the law or looking elsewhere to do this – are described as the 'chorus.' Just as Hartman gave a direct look at *what* waywardness/justice is, she also gives a picture of *who* lives this waywardness/justice. As a reminder, anyone can be a part of this picture, can strive, and can live as if we have already strived, as if all the justice we have ever wanted and needed is already all around us.

2.4 Aporia: The Aporia(s) of Deconstruction and Waywardness

I explored waywardness and deconstruction's understanding of justice in the past section. I noted that both Hartman and Derrida see justice and law as distinct. Because of the current workings of our society, the two concepts are also related. According to contemporary society, law is exercised in the name of justice, and that justice is required to establish or enforce itself in the name of law. This mutually-dependent interaction (in the current workings of our society) means that deconstruction is found between these two poles (Derrida, 1994, 22). Derrida terms this interaction, and this space of interaction, 'aporia.' Aporia is the "privileged site" of deconstruction" (Derrida, 1994, 22). Derrida delves into different understandings of aporia throughout "Force of Law" and throughout his life. He relates aporia to hospitality, to forgiveness, and more. However, despite the changing subject matter, Derrida maintains that there is really only one aporia that "infinitely distributes itself" (Derrida, 1994, 22).

In the context of this paper, the aporia is the navigating of the relationship between law and justice. Derrida explores 'épokhe of the rule' as one example of the aporia. 'Épokhe of the rule' outlines the impossible dilemma that law and justice present together. Imagine a case in the court of law. To have justice, the deciding of the case must both maintain law and temporarily suspend or destroy law to re-invent law (Derrida, 1994, 23). Blindly applying a rule cannot be just; therefore, the deciding of the case must do more than merely maintain law to be just (Derrida, 1994, 17). It must suspend the law enough to re-invent it, to re-justify it, to follow a "new and free confirmation of its principle" in the name of justice (Derrida, 1994, 23). Yet the deciding of the case cannot wholly destroy law; erasing all prior rule or norm would be also unjust. There must be engagement with precedent. Therefore, 'épokhe of the rule' demonstrates justice to require contradictory – or mutually incompatible – responses towards law.

Another way to understand this dilemma is that relation to the law must be both universal and singular. As Derrida stakes, the deciding of the case must reflect "respect for equity and universal right but also for the always heterogenous and unique singularity of the unsubsumable example" (Derrida, 1994, 24). Derrida's text "Before the Law" outlays a metaphor (taken from Kafka's short story of the same title) that more fully describes this tension. Imagine the law as through a door – if so, "its door concerns only you, a door that is unique and specifically destined and determined for you" (Derrida, 2001, 210). Yet this singular door must also "come into contact with the… universal essence of law without ever being able to do so" (Derrida, 2001, 187).

Épokhe of the rule – or the door metaphor – presents the aporia as an impossible dilemma. However, the aporia is not paralyzing. Just as deconstruction is a movement or experience, Derrida describes the aporia as an experience too. The aporia is the "experience of responsibility" (Derrida, 2001, 62). The infinite distributions of the interaction between law and

justice each offer an impossible set of contradictory injunctions. The aporia is "what we have to go through in order to take responsibility and to act or to decide" (Derrida, 2001, 62). In Derrida's view, all true decisions must undergo the 'ordeal of the undecidable.' The ordeal, presented as another way to understand the aporia, is not only the tension between two choices. Rather, it's an experience that is both "foreign to the order of the calculable and the rule" yet still obliged to "[take] account of law and rules" (Derrida, 1994, 24). This means that the ordeal of the undecidable "is never past or passed, it is not a surmounted or sublated moment in the decision" (Derrida, 1994, 24). Yet the ordeal is necessary to any true decision. Critics of Derrida deride deconstruction as an esoteric understanding of the world that only complicates, offering neither clarity nor a path forward. However, as the site of deconstruction, as the experience of the undecidable, the aporia is the way through. The aporia is the facing of impossible choices, and in spite of this – or perhaps, because of this – still making the choice. The aporia is the experience of an impossible experience.

This means that justice requires the experience of the aporia. Derrida writes "I think that there is no justice without this experience, however impossible it may be, of aporia" (Derrida, 1994, 17). Derrida further describes aporetic experiences in his roundtable on forgiveness. Navigating the tension between 'pure forgiveness' and 'practical forgiveness' is another distribution of the aporia. He discloses that it's because of the incompatibility between these poles that "we have to take responsibility, a difficult responsibility, to negotiate the best response in an impossible situation" (Derrida, 2001, 58). This 'best response' is difficult. Derrida himself struggles to find it. During the roundtable, he admits to colleagues that although he strives to treat everyone equally, he practically grants privilege to his kinship, his language, his country, and more. His words humanize deconstruction and the aporia. Together, the two call for the facing of impossible choices, but this is not paralyzing. Rather, deconstruction and the aporia show a way through, no matter how we may stumble.

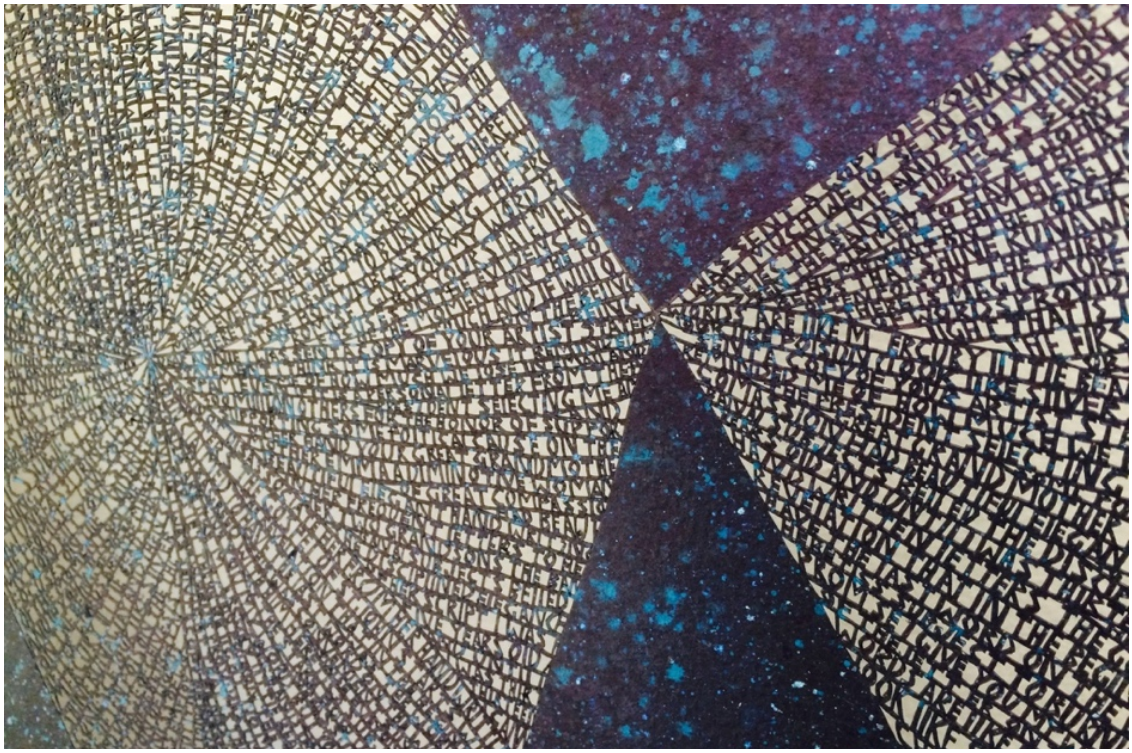
Hartman's chorus doesn't navigate justice and law in the same way. But her chorus does practice waywardness – and so the chorus is the experience of waywardness, of justice nevertheless. How she describes this experience parallels what Derrida writes. Facing the insurmountable odds of life, the impossibility of waywardness's or deconstruction's justice, is not paralyzing. Instead, it's motivating – because it's about the struggle as much as the result. Deconstruction calls for an experience, not an outcome, and so does waywardness. Waywardness and deconstruction are both an "eternal... struggle" that "somebody else carries on" (Hartman, 2019, 348). As Hartman writes,

> "Shit, it doesn't even matter if you're black and poor, because you are here and you are alive and all these folks surrounding you encourage and persuade you to believe that you are beautiful too" (Hartman, 2019, 24).

It's about the beauty of trying, about making "a way out of no way" (Hartman, 2019, 347). Deconstruction, waywardness, even the philosophy of the limit – it's all a "beautiful experiment in how to live" (Hartman, 2019, 228).

PART THREE

THE INSIGHT THAT DECONSTRUCTION AND WAYWARDNESS BRING TO RESTORATIVE JUSTICE



"the last word on the word" by Annie Vought (Vought, A.)

"Sometimes we drug ourselves with dreams of new ideas. The head will save us. The brain alone will set us free. But there are no new ideas still waiting in the wings to save us… There are only old and forgotten ones, new combinations, extrapolations and recognitions from within ourselves, along with the renewed courage to try them out" (Lorde, 1984, 36)

An excerpt from "Poetry is Not a Luxury" by Audre Lorde

3.1 Introduction: Introducing the Insight That Deconstruction and Waywardness Bring to Restorative Justice

Restorative justice can heal harm *and* restorative justice can perpetuate harm. Restorative justice helped to heal the harm of Tony Hicks and Azim Khamisa, of Heather Thompson, of those who have entered Judge Donnelly's courtroom, of those who have participated in a VORS mediation at CYS. And restorative justice has perpetuated the harm of certain VORS participants, perpetuated the harm of colonization, perpetuated the harm rendered by the structures of our society. All are true. That leaves one question, one issue, one aporia: how can restorative justice heal harm without perpetuating harm, even when that means challenging the

structures of our society? As Mara Schiff puts it, "is restorative justice strong enough to co-opt the co-opters?" (Valandra, 2020, 13).

Derrida's project of deconstruction, and Hartman's project of waywardness, can help form a response. Like I explored in the last chapter, deconstruction and waywardness are complementary to restorative justice. The characteristics that are core to restorative justice are also part of deconstruction and waywardness. All three projects are bound to justice; all three are a collection of ideas and values to bring to each specific situation (not a method to apply blindly); all three operate without an expected outcome; all three call for an experience of the impossible; all three are about transformation. Because these shared characteristics are so crucial to restorative justice, because deconstruction and waywardness are so complementary to restorative justice, deconstruction and waywardness can inform restorative justice. Things specific to deconstruction and waywardness can give insight to restorative justice. That's what I'll explore in this chapter: the insight that deconstruction and waywardness offer restorative justice.

These insights spring from the characteristics that restorative justice does not yet share, the double movement it does not yet practice, the tie to justice it does not yet understand, and the aporia it does not yet undergo. I hope to bring all of these things to restorative justice, so that all of these can illumine the aporia the field faces. I believe there should be a way to bring each and every one of these things to the field. There are two characteristics that are specific to deconstruction and waywardness – two characteristics that restorative justice does not yet share. That's essence-as-an-experience and look-both-ways responsibility in the face of tradition. Those are the characteristics that will illumine restorative justice. It's true that essence-as-an-experience is already somewhat a characteristic of restorative justice. An emphasis on experience (as opposed to only an emphasis on outcome) exists within the field. Look at what's critical to almost every restorative justice process: a restorative justice circle. A circle (like I talked about in chapter one) is an interaction between the stakeholders of an incident (or structure) of harm; it's a chance to share; in essence, it's an experience. Inspired by deconstruction and waywardness, I believe that restorative justice circles (the part of the field that's an experience) should play an even bigger role within the field. That's an insight that I'll return to throughout this chapter.[12]

The other characteristic holds little space within the field. A look-both-ways responsibility in the face of tradition is not a mainstream part of restorative justice. Remember the core values and principles of restorative justice: there's no emphasis on engaging with tradition. There's no push to recognize – in any real sense – historical events. Like Valandra and Davis said (RJ scholars that I referenced in chapter one), the field is not concerned with past or present colonization or systemic racism or any other structural harm. The field has been "silent, afraid, and conforming – complacent with institutional and structural harms" (Valandra, 2020, 13). And "complacency – straining at individual missteps while swallowing institutional mega-harms – is complicity" (Valandra, 2020, 12). The field only looks at past events when addressing

[12] This insight will mean something different in each context of restorative justice. For example, take the VORS program at CYS. We say a mediation is "unsuccessful" when we aren't able to produce a restitution agreement (that's an agreement that all participants write together, and must agree upon). I believe that bringing this characteristic (essence-as-an-experience) to this context means that a restitution agreement shouldn't solely determine the success of a mediation. A mediation that doesn't produce a restitution agreement still provided a Narrative Discussion stage; there was still (at least some) space to share. And that space is valuable regardless of the completion of the restitution agreement. Like I talked about in chapter one, the needs of people who experienced the harm generally include "truth-telling:" the chance to share what happened from their perspective. If a mediation is able to satisfy this need (at least partially), then it can't be (fully) unsuccessful.

a specific incident of harm. Even then, it's barely. As Zehr tells us, restorative justice asks: 'Who has been hurt?' and 'What are their needs?' – yet these questions are superficial. These questions rarely lead to the root causes of a harm, to the real relevant historical events. Because the field does not look back, it cannot look forward (it cannot shape its path forward) in any meaningful way. The potential of the field will always be limited by the frame through which it engages.

You can already see how deconstruction and waywardness start to inform restorative justice. Bringing the characteristics specific to deconstruction and waywardness prompts certain critiques (or spots to change) for restorative justice. I'll build on these spots to change in the following sections, and it's these critiques that will help restorative justice to face its aporia.

3.2 Process: Bringing the Double Movement of Deconstruction and Waywardness to Restorative Justice Circles

The double movement is the movement of both Derrida's deconstruction and Hartman's waywardness. The movement is borne from the look-both-ways responsibility in the face of tradition. The double movement is how to practice, how to live, this look-both-ways responsibility in the face of tradition. That makes it relevant to restorative justice. As I just said, restorative justice needs to practice this look-both-ways (the field must engage with the past to meaningfully engage with the present and the future). The double movement is how it can do so.

Like I explained in chapter two, the double movement is a continuous cycle of two steps, connected by the moment of suspense (as Derrida would say) or the unerasable moment of utopianism (as Cornell would say). The first step is a look back to the past, to tradition. It's the "task of an interpretive memory" (Derrida, 1994, 19). It's an interrogation of what exists (concerning law and justice). This step yields the moment of suspense. Interrogating all past events and present of justice, all past and present understandings *suspends* these events and understandings. This creates the space for transforming these understandings, these events, this tradition. That's the second step of the double movement. The second step is a call for more. Judging the tradition of justice – and finding it to be inadequate – motivates the push to change (or add) to the tradition. This makes the moment of suspense also "the interval of spacing in which transformations, indeed juridico-political revolutions take place" (Derrida, 1994, 20). It's an "ungraspable revolutionary instant" (Derrida, 1994, 41). It's Cornell's 'unerasable moment of utopianism.'

The restorative justice circle is the central process of restorative justice – and so I'll explore the double movement in the context of the circle. Bringing the first step of the double movement to the circle means interrogating whatever harm the circle is talking about (the circle would have to be about harm, because that's the predominant focus of circles in the field today). Interrogating the harm means understanding what happened – and that requires looking at the harm in context. We need to situate the harm in relation to past events and to past and present societal structures. We can't understand the harm in a vacuum, in the abstract – just like you can't find a star without its constellation, can't find the constellation without its galaxy. That means the restorative justice questions of 'Who has been hurt?' or 'What are their needs?' should not be superficial queries. Those questions should trace harm to its root causes, understand need in the biggest sense possible, find the relevant past events and societal structures. That's how a few in the field already understand these questions. The authors of *Colorizing Restorative Justice* see it this way. Remember the quote from Edward Valandra in the first chapter: the field's core value of hearing harm is about listening to harm suffered "individually" *and* "through structural marginalization" (Valandra, 2020, 373). Bringing the look-both-ways characteristic to restorative

through the double movement means that every person in the field should understand the core value like Valandra, should understand the questions in their deepest sense. In the context of the VORS case, that means when I asked the youth about the harm they had experienced, that question should have (ideally) brought us to the racism tied to the legal system. We should have (ideally) engaged with the harm arising from the structures of our society.

Interrogating what happened (what exists) pushes us to appeal for more. That's because our interrogation suspends everything and allows us to see that what happened was lacking. That what happened needs to change, that it needs repair, that it needs more. That's where the moment of suspense comes in – this moment of unerasable utopianism. It's the moment where we can dream of a new world, fuel our imagination of a society not rooted in punishment. I believe you can find that moment in a moment of connection in the circle. It's the moment when Heather hugged her brother's murderer; when Azim and Tony started to work together. This moment of connection might not last, the glimpse of the world might fade, but the more we chase this moment, the more it will endure. This shows that restorative justice too must be a continual cycle. Like deconstruction or waywardness, restorative justice must be 'an ongoing exploration of *what might be*,' a cycle of ever unfulfilled, ever unyielding 'aspiration.'

3.3 Law and Justice: Navigating the Intersections of Restorative Justice and the Legal System With the Characteristics, Process(es), and Justice(s) of Deconstruction and Waywardness

Remember the 'Law and Justice' section of chapter one. Restorative justice (in the U.S.) interacts with the legal system in three ways: within legal system proceedings, after legal system proceedings, or as a replacement to legal system proceedings. This prompts the question: how to bring essence-as-an-experience and the look-both-ways characteristics (through the double movement) to each of these interactions. How can we navigate the confines of law to still bring a greater focus to the experience of restorative justice and to the context of whatever harm restorative justice is addressing.

What can help us navigate these confines is the justice of deconstruction and the justice of waywardness that I explored in the last chapter. The justice of restorative justice is 'putting it right.' That's how Zehr phrased it in chapter one. It's the healing or repair (as much as possible) of whatever harm occurred. But what does this look like? What does putting it right mean? I didn't give much to go off of in chapter one. So that's where the justice(s) of deconstruction and waywardness come in now. These justices can clarify what putting it right means, give more shape to what repairing or healing harm looks like. That will help us to further bring the characteristics and movement of deconstruction and waywardness to all interactions with the law.

Derrida's justice is deconstruction. Justice is the experience of the impossible, the aporetic experience. The aporetic experience is the facing of impossible choices, and in spite of this – or perhaps, because of this – still making the choice. Justice is somehow, someway, facing and undergoing and coming through the impossible – to once again face the impossible. Think about this in the context of a restorative justice circle. The double movement sets up the flow: you must understand what happened (including in relation to past events and past and contemporary societal structures), this suspends what happened, and this suspense gives the space for change. This space is the space for justice, for the impossible experience. The justice of a restorative justice circle must all address all needs (must respond to all harms), and this is impossible. And yet impossible does not mean hopeless – deconstruction's justice, this idea of

justice, gives us an absolute, an unconditional, to strive for. We strive for that in this space, and we continue to strive for that (because as I said in the last chapter, deconstruction, wayward, *and* restorative justice are all a cycle of ever-unfulfilled, ever-unyielding aspiration).

Justice is this striving *and* it's more than this striving. That's what Hartman's justice shows us. The justice of waywardness is something that calls for more justice (that calls for this striving, that is this striving) and it's something that calls to live as if that justice were already here (as if we had already strived). The justice of waywardness is holding both. It's living both, at the same time. We live for more, we call for more, *and* we don't put our lives on hold until that more comes. Because the beauty does not only come with the arrival of the more – it comes also with the trying for more. As Hartman writes, "beauty resides as much in the attempt as in its failure" (Hartman, 2019, 197).

There's a way to bring these justices, the two characteristics, and the double movement to all intersections between restorative justice and the law. A restorative justice circle after (or outside of the law) is easy. There's no legal system to negotiate in the practicing of the circle. The circle can take as much space as it needs, create whatever experience it creates. There are no confines. The double movement, these justices, these characteristics can inform the circle in every way, in every shape.

With a restorative justice circle within or as a replacement to legal system proceedings, there's more to navigate. A restorative justice circle within the legal system only has a certain amount of space. The people in Judge Donnelly's courtroom only have so much time to share, only have so many topics appropriate for court. That's something Judge Donnelly wants to change. He believes there are "rules we need to relax." And he believes that circles should be privileged – that people should be able to share whatever they want to share, without repercussions. That's an initiative he's working on in his district in Illinois. For people in the legal system practicing restorative justice within the system, I believe that work is essential. They cannot only be practicing the field, but working to create more space, more freedom, for this practice. The space that the characteristics, the double movement, and the justices show that restorative justice circles need.

For a circle replacing legal system proceedings, there's also something to navigate. These types of circles must fit within the legal system (not inside, but within). Think of the legal system as a puzzle: replacing one aspect of the system with a circle is like taking out one piece, and replacing it with another. The piece can look different, but it must have the same shape. The only freedom these circles have is what they can look like – and that's where we find the space to practice the characteristics, the double movement, the justices. Because this circle does not have to uphold the legal system within the circle. This circle (or at least most) is a privileged space. In a VORS mediation, we can say screw the system – we can say that that police officer should not have arrested you, that that law should not exist, that what happened should not have occurred. Yes, we must recognize the arrest, and the law, and the restitution agreement must play its part to replace what otherwise would have happened from this arrest and this law. But in the circle, we can do whatever, say whatever. And it's up to every mediator to practice this freedom, to practice creating this space of resistance to societal structures. I didn't do that in my VORS mediation, and I wish had. That's how to acknowledge harm without fully bowing to the structures. That's something I'll build upon in the following section.

3.4 Aporia: Bringing the Insights of Deconstruction and Waywardness to Face the Aporia of Restorative Justice

This section is what this paper has been buildings towards. How can restorative justice recognize all needs, how can it heal harm without perpetuating harm, how can it defy and change the societal structures that confine it? How can it 'co-opt the co-opters?' As Edward Valandra writes:

> "To put it another way, can restorative justice support settlers in holding yourselves accountable for the massive harms your settler identities perpetrate? If so, can settlers in RJ engage the reparative process as a group and effect your collective self-transformation?" (Valandra, 2020, 405).

I believe that circles hold the answer – circles informed by the characteristics essence-as-an-experience and the look-both-ways, by the process of the double movement, by the justices of deconstruction and waywardness. These circles (can) create the space(s) of transformation we need.

I can't explore how circles enable every practice of restorative justice to face the aporia specific to that practice. I can't even claim that circles always holds this power. In the spirit of restorative justice, of deconstruction, of waywardness, there is no one way to hold a circle, no one way to undergo the aporia. What I can explore is how a circle could have enabled space(s) of transformation with my VORS case – and give glimmers at how other circles, in other situations, could spark parallel spaces.

As a mediator, I could have brought the characteristics of essence-as-an-experience and the look-both-ways to that mediation. There are four stages to a VORS mediation: Introduction, Narrative Discussion, Writing the Restitution Agreement, and Closing. It's easy to pinpoint the restitution agreement as the most important part. The agreement is the only part that touches the legal system, the only part that the system sees. It's what replaces whatever proceeding the legal system would have imposed (most likely, incarceration). It's easy to see the other stages as only building blocks to that stage. But those other stages have value in themselves, value that holds regardless of what happens with the restitution agreement. That's what the characteristic essence-as-an-experience shows. That there is value in the experience of restorative justice, in the circle, in the Narrative Discussion, that nothing can touch. That means embracing the Narrative Discussion to its full potential, embracing that experience even if it never touches the restitution agreement, never moves the legal system. I recently talked to a lawyer who focuses on genocide, on mass atrocities, and she believes that justice is acknowledgement. This acknowledgement can come in many forms, and I believe that essence-as-an-experience, that valuing the Narrative Discussion regardless, is one way to live this.

Valuing the experience of restorative justice, of this stage in the VORS mediation, gives space for the look-both-ways – and the double movement is how to practice the look-both-ways. The double movement is a call to interrogate what happened. It's call to examine the harm in context – in relation to past events and past and contemporary societal structures. That means asking why the youth stole pants, why the security officers responded as they did, and what needs to change to make sure these harms don't happen again.

It's Hartman and Derrida's justice in the sense of trying to understand these societal structures, and shift them in some way – and Hartman's justice of living no matter how these societal structures sway (or don't).

There's a way to bring this to other harms, to other restorative justice circles. To amplify the healing (by embracing the experience, and the context of it) and minimize the harm (by

untying ourselves from the system). And maybe that's the aporia – it's not how to totally transform society right now, but how to 'uplift the changes that are already in motion,' as Derrida would say. To amplify the healing, and minimize the harm – both by changing the system, and by living our lives.

THANK YOU FOR READING

(*Hurtado-Ramos*)

Conclusion

Facing all that is going on and living (not only surviving, not only fighting) is hard. There's much to balance. This text aims to reflect on how to find that balance within the context of restorative justice. The field has immense potential: Tony, Heather, Judge Donnelly, my VORS cases, all show that restorative justice has incredible power to heal. And it has incredible power to harm – to bow to and perpetuate the structural systems of oppression that crisscross our society. There is no way to avoid these systems. Restorative justice intersects them, inherently. I believe that all we can do is struggle to create moments of connection that transcend the systems, that give a glimpse of a world without them, and then struggle to minimize the systems to further bring this world to life.

There is no wave-a-magic-wand solution. No one-size-fits-all answer. It is, and must be, a continuous struggle. It is and must be an 'ongoing exploration of *what might be*,' a cycle of unyielding 'aspiration.' Derrida and Hartman unearth a way to live and engage justly, across legal cases and Harlem drag shows. They give body to justice, give shape to the struggle. They illumine restorative justice. The two scholars show that justice is not an outcome, but an experience. That justice is a never-ending struggle that those who come after us carry on. That justice is unmapped, out of reach, and intangible – but transcendentally inspiring. Justice is a beautiful experiment in how to live. Derrida and Hartman's projects calls legal scholars, kitchen conscripts, authors, judges, washerwomen, and more to the struggle. Deconstruction and waywardness are a call to responsibility to everyone – to create change, and to live as if that change were already here.

That's what these projects bring to restorative justice. They show that the field is and must be the 'errant path in search of a place better than here.' An 'assembly sustaining dreams of the otherwise.' This paper is a call to pay attention to those dreams – to Hartman's ideas, to Derrida's thoughts – and to dream your own dreams. To find your dreams, and to live your dreams, both in accordance with what the world looks like now and what the world could look like in the future. As Hartman writes, it's all 'a beautiful experiment in how to live.'

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